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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,044	08/02/2001	Lewis S. Ostrover	3053-040	7636

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EXAMINER	
NGUYEN, HUY THANH	

ART UNIT	PAPER NUMBER
2621	

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/921,044	OSTROVER, LEWIS S.	
	Examiner	Art Unit	
	HUY T. NGUYEN	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 February 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *33-57* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *33-47* is/are allowed.

6)☒ Claim(s) *48-57* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 1 , 48, 51-52 are objected to because of the following informalities:

In claim 1, it is not cleat what is meant by "changing state";

In claim 48, line 5, there is no antecedent basis for "said viewer"; and

In claim 51 and 52, there is no antecedent basis for "said indication". Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 48 is rejected under 35 U.S.C. 102(b) as being anticipated by Engle (6,236,801).

Regarding claim 48 ,Engle discloses an apparatus for allowing a viewer to assign content codes to scenes in an audiovisual program comprising:

a device for playing the program and provided with a scene indicator (a display) to identify a new scene (column 8, lines 29-68);

a content selector having a viewer input for generating a content code for a scene since the content code can be used for determining whether the scene is played or not ; and a memory for storing content codes associated with respective scenes (column 8, line 29-40).

4. Claims 48-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Kunitake et al (5,459,517)

Regarding claim 48, Kunitake et al discloses a method for generating content codes for the sequential scenes of a program from a program signal received from a program player comprising: receiving said program signal;

identifying a current scene of said program from said program signal (column 4, lines 54-68) ; obtaining a content code from said viewer regarding said scene; and storing said content code in a memory (column 4, 58-61)

Regarding claim 49, Kunitake further teaches storing in said memory data (frame position) relating to the beginnings and endings of scenes together with said content codes (column 4, lines 60-68) .

Regarding claim 50, Kunitake further teaches the method of claim 48 further comprising detecting a new scene and providing an indication that said new scene requires a content code (column 4, lines 45-50, column 63-68) .

Regarding claim 51, Kunitake further teaches the method of claim 48 further comprising changing said indication for said new scene after said content code is obtained for said current scene (column 4, 64-68) .

Regarding claim 52,, Kunitake further teaches the method of claim 48 further comprising detecting each new scene sequentially and automatically activating said indication after each new scene is detected (column 4, lines 60-68) .

Regarding claim 53 , Kunitake further teaches new scenes are detected automatically by a scene detector (column 4, line 27-36).

Regarding claim 54, Kunitake further teaches wherein new scenes are determined by a viewer and indication is controlled by a manual switch operated by the viewer (column 4, line 60-68) .

Regarding claims 55 and 56, Kunitake further teaches deactivation indication since the viewer can control viewing the scene , assigning the content code and deactivating indication.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kunitake et a in view of Shore et al .

Kunitake fails to teaches using a timer for indicating the time left for the current scene . Shore teaches using a timer for indicating the time left for a current scene (Fig. 3, column 8, lines 1-15). It would have been obvious to one of ordinary skill in the art to modify Kunitake with shore by providing the apparatus of Kunitake with a timer as taught by Shore for indicating the time left for the current scene thereby accurately accessing the scene.

Allowable Subject Matter

7. Claims 33-47 are allowed.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N

HUY NGUYEN
PRIMARY EXAMINER